

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, December 2, 2011
Arizona Game and Fish Department
5000 West Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairman Robert R. Woodhouse
Vice Chair Norman W. Freeman
Commissioner Jack F. Husted
Commissioner Robert E. Mansell

Director Larry D. Voyles
Deputy Director Bob Broscheid
Deputy Director Gary R. Hovatter
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Not present: Commissioner John W. Harris

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: John Romero, Acting Law Enforcement Branch Chief

Mr. Romero presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals was legally noticed for this hearing.

Name	Docket #	Count	Conviction
James E. Lynch	2011-0067	Count 5:	Obtain License or Permit by Fraud
Tyler C. Lynch	2011-0068	Count 5:	Obtain License or Permit by Fraud
Rick J. Lynch	2011-0069	Count 5:	Obtain License or Permit by Fraud
Mike J. Pucelik	2011-0065	Count A:	Waste of Edible Game Meat
George R. Whitlock	2011-0066	Count B:	Fail to Immediately Tag
		Count D:	Possess Unlawfully Taken Wildlife
		Count E:	Waste of Edible Game Meat
Joseph B. Nichols	2011-0073	Count A:	Obtain 2010 Arizona License By Fraud
		Count B:	Obtain 2010 Arizona Tag By Fraud
Joseph B. Nichols	2011-0074	Count A:	Obtain Lifetime Arizona License By Fraud

Roll call was taken and the following were present: James Lynch, Tyler Lynch, Rick Lynch, Mike Pucelik, George Whitlock, and Joseph Nichols.

Mr. Romero stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was

asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Freeman moved and Mansell seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

4-0

Harris not present

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The cases of James E. Lynch, Tyler C. Lynch and Rick J. Lynch are related.

James E. Lynch

Docket # 2011-0067

Lynch was found guilty by the Maricopa County Superior Court for: Count 5: Obtain resident wildlife license or tag by fraud; and sentenced Count 5: Ordered to pay restitution of \$1,677.75, and a fine of \$1,840.00 with 6 months probation.

Lynch was present and addressed the Commission. He bought a home in Bullhead City in 1997 with the intention of retiring there. It was a family home for his sons as well. In 1997 he and his sons got Arizona ID cards. In 2000 he bought his Arizona registered vehicle and in 2002 he got his Arizona drivers license. In 2002-03 he bought a boat with Arizona registration. He still had a home in San Diego and traveled a lot so his mail continued to go to his California address where he had a neighbor handling that for him. With aging parents and all the travel back and forth it was convenient to keep his mail going to the California address. With his sons being named in a Trust as part owners of the home in Bullhead City, that's where it became convoluted and his sons got mixed up in this issue. That's when they went to the Game and Fish Department in Kingman and they signed up for the family hunt tag application. They had a great family outing on there hunts, but they have never harvested an animal in the State of Arizona. He also feels bad misleading his sons with bad information.

Chairman Woodhouse pointed out several conflicting matters in the report where Mr. Lynch appears to have claimed residency in both Arizona and California.

Mr. Lynch's attorney addressed the Commission and added that when the Lynch's were first contacted in the field, they were told by the officers not to worry, that this was just a misdemeanor. Then they received notice in the mail from the Maricopa County Attorney's Office charging them with numerous serious felonies. So the risk was significant and that why they settled and pled guilty. But their intent was not to defraud the State of Arizona and their intent was not to illegally take wildlife in the State of Arizona.

Motion: Mansell moved and Husted seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JAMES E. LYNCH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TWO (2) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF

THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Husted, Mansell
Nay - Woodhouse, Freeman
Failed 2 to 2, No majority
Harris not present

Motion: Freeman moved and Mansell seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JAMES E. LYNCH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Freeman, Husted, Mansell
Nay - Woodhouse
Passed 3 to 1
Harris not present

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The cases of James E. Lynch, Tyler C. Lynch and Rick J. Lynch are related.

Tyler C. Lynch
Docket # 2011-0068

Lynch was found guilty by the Maricopa County Superior Court for: Count 5: Obtain resident wildlife license or tag by fraud; and sentenced Count 5: Ordered to pay restitution of \$1,487.25, and a fine of \$2,208.00 and one month probation.

Lynch was present and addressed the Commission stating that it was never his intent to obtain a license by fraud. He made a mistake and was sorry.

Mr. Lynch's attorney addressed the Commission and stated that the Lynch family paid there fee's and fines and showed up here today to rectify the situation. Again, there was no intent to defraud the State of Arizona.

Motion: Mansell moved and Husted seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF TYLER C. LYNCH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

4-0

Harris not present

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The cases of James E. Lynch, Tyler C. Lynch and Rick J. Lynch are related.

Rick J. Lynch

Docket # 2011-0069

Lynch was found guilty by the Maricopa County Superior Court for: Count 5: Obtain resident wildlife license or tag by fraud; and sentenced Count E: Ordered to pay restitution of \$1,487.25, and a fine of \$2,208.00 and one month probation.

Lynch was present and addressed the Commission stating that he and his family were wrong and now they have been schooled on why they were wrong to the extent of thousands of dollars, and to the extent of embarrassment. In good faith they thought they were doing the right thing. But this was a mistake and not fraud and he is sorry.

Motion: Freeman moved and Husted seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF TYLER C. LYNCH TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT,

CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4-0
Harris not present

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The cases of George Whitlock and Mike Pucelik were related.

George R. Whitlock
Docket # 2011-0066

The case officer was present by phone.

Whitlock was found guilty by the Flagstaff Justice Court for: Count B: Possess without tag attached; Count D: Possess unlawfully taken wildlife; and Count E: Waste of edible game meat; and sentenced Counts B, D, and E: Combined fine of \$1,002.00.

Whitlock was present and addressed the Commission. This is only the second time he has been out in the field. It is his fault. He thought all the elk in the group were cows. What he did makes him look like a poacher but he is not. He had a license for a cow and his intent was to shoot a cow and not a bull.

Motion: Mansell moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF GEORGE R. WHITLOCK TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST GEORGE WHITLOCK TO COLLECT THE SHARED AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) BULL ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4-0
Harris not present

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Mike J. Pucelik

Docket # 2011-0065

Pucelik was found guilty by the Flagstaff Justice Court for: Count A: Possess tag of another; and Count C: Waste of edible game meat; and sentenced a combined fine of \$466.00.

The case officer was present by phone.

Pucelik was present and addressed the Commission stating that he and Mr. Whitlock had no intention of committing any violation and it was just a mistake. The mistake was then compounded by bad circumstances and bad decisions following the first mistake. This is extremely embarrassing and humbling. He is not a poacher.

Motion: Woodhouse moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MIKE J. PUCELIK TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST MIKE J. PUCELIK TO COLLECT THE SHARED AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) BULL ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

4-0

Harris not present

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Joseph B. Nichols

Docket # 2011-0073

Nichols was found guilty by the East Mesa Justice Court for: Count A: Obtain 2010 resident lifetime license by fraud; and sentenced Count A: Fined \$295.00 with \$149.49 to go to the wildlife theft prevention fund.

The case officer was present.

Nichols was present and addressed the Commission and apologized to the Commission. Was born and raised in Arizona and was only in Washington because his son was there. Nichols asked for leniency because he did not want to lose his bonus points.

Commissioner Mansell asked to hear Mr. Nichols other case first.

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Joseph B. Nichols
Docket # 2011-0074

Nichols was found guilty by the East Mesa Justice Court for: Count A: Obtain 2010 resident lifetime license by fraud; and sentenced Count A: Fined \$295.00 with \$149.49 to go to the wildlife theft prevention fund.

Motion: Mansell moved THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOSEPH B. NICHOLS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

The Commission discussed that this case had similarities to the other cases the Commission has seen today. Also, since the lifetime license was obtained by fraud, Nichols will not get the lifetime license back once his revocation period is over, he will have to buy a new license.

Motion dies for lack of second.

Motion: Husted moved and Freeman seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JOSEPH B. NICHOLS TO HUNT, FISH, AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous
4-0
Harris not present

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Joseph B. Nichols
Docket # 2011-0073

The Commission took no action on this case because the affect would be the same as with the prior case.

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These hearings concluded at 5:00 p.m.

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